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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,314	07/02/2001	Olga Bandman	PF-0568 USN	5060

7590 06/30/2003

Incyte Genomics Inc
Legal Department
3160 Porter Drive
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EXAMINER	
CARLSON, KAREN C	
ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/744,314	BANDMAN ET AL.	
	Examiner	Art Unit	
	Karen Cochrane Carlson, Ph.D.	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-20* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Table 2 shows that SEQ ID NO: 1-8 are drawn to polypeptides having different structure and function. Therefore, the claims will be repeated within groups to reflect the specific polypeptide. The elected groups will only be examined in-so-far as it pertains to the specified polypeptide.

Group 1, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 1.
Group 2, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 2.
Group 3, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 3.
Group 4, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 4.
Group 5, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 5.
Group 6, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 6.
Group 7, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 7.
Group 8, claim(s) 1, 2, and 15, drawn to polypeptide having SEQ ID NO: 8.

Group 9, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 1.
Group 10, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 2.
Group 11, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 3.
Group 12, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 4.
Group 13, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 5.
Group 14, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 6.
Group 15, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 7.
Group 16, claim(s) 3-6 and 9-14, drawn to polynucleotide encoding polypeptide having SEQ ID NO: 8.

Group 17, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 1.
Group 18, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 2.
Group 19, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 3.
Group 20, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 4.
Group 21, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 5.
Group 22, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 6.
Group 23, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 7.
Group 24, claim(s) 16, drawn to antibody against polypeptide having SEQ ID NO: 8.

Group 25, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 1.
Group 26, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 2.
Group 27, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 3.
Group 28, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 4.
Group 29, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 5.
Group 30, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 6.
Group 31, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 7.
Group 32, claim(s) 17, drawn to an agonist of polypeptide having SEQ ID NO: 8.

Group 33, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 1.
Group 34, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 2.
Group 35, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 3.
Group 36, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 4.
Group 37, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 5.
Group 38, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 6.
Group 39, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 7.
Group 40, claim(s) 18, drawn to an antagonist of polypeptide having SEQ ID NO: 8.

Group 41, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 1.
Group 42, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 2.
Group 43, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 3.
Group 44, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 4.
Group 45, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 5.
Group 46, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 6.
Group 47, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 7.
Group 48, claim(s) 7 and 8, drawn to method for detecting polynucleotide using polynucleotide encoding polypeptide having SEQ ID NO: 8.

Group 49, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 1.
Group 50, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 2.

Group 51, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 3.
Group 52, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 4.
Group 53, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 5.
Group 54, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 6.
Group 55, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 7.
Group 56, claim(s) 19, drawn to method of treatment by administering polypeptide having SEQ ID NO: 8.

Group 57, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 1.
Group 58, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 2.
Group 59, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 3.
Group 60, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 4.
Group 61, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 5.
Group 62, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 6.
Group 63, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 7.
Group 64, claim(s) 20, drawn to a method of treatment by administering the antagonist of polypeptide having SEQ ID NO: 8.

The inventions listed as Groups 1-64 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Ryseck et al teach V58 having 92% identity to SEQ ID NO: 1 as noted on the PCT 409. Therefore, Ryseck et al. teach a polypeptide encoding a fragment of SEQ ID NO: 1 and a variant having at least 90% identity to SEQ ID NO: 1.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Cochrane Carlson, Ph.D. whose telephone number is 703-308-0034. The examiner can normally be reached on 7:00 AM - 4:00 PM, off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Christopher Low can be reached on 703-308-2329. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Karen Cochrane Carlson PhD

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June 26, 2003

KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER